FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL APPLICATION NO.3041 OF 2005
IN
WRIT PETITION NO.6255 OF 2005

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.R.V.Desai, Sr.Advocate for applicants.
Mr.S.N.Kantawalla i/by Yogesh Rohira for respondents.

CORAM : H.L GOKHALE &
J.P.DEVADHAR, JJ.
DATED : 23rd November 2005

P.C. :

1. Heard Mr.Desai in support of this Application. Mr.Kantawalla appears for the respondents.

2. The respondents herein had filed Writ Petition No.6255 of 2005 for implementation of the order passed by the Central Excise and Service Tax Appellate Tribunal in favour of the respondents herein. A statement was made before a Division Bench by the Counsel appearing for the revenue

that the applicants herein were proceeding to challenge that order in the Apex Court. The said Petition was disposed of on 29th September 2005 by recording the statement of the Counsel for the revenue that such an Appeal may be filed within three weeks and if not so filed, the order will be implemented.

3. Thereafter a Civil Application bearing No.2847 of 2005 was filed for extending the time and the Division Bench extended the time by two weeks by its order passed on 27th October 2005. Second Civil Application has been filed now which points out that this S.L.P. has now been filed bearing No.D24724 of 2005 and that S.L.P. will now come up for consideration on 28.11.2005. A prayer is, therefore, made that time be extended appropriately.

4. Mr.Kantawalla appearing for the respondents (original petitioners) strenuously opposes this prayer by submitting that time has been granted twice by this Court and it would not be proper to extend it once again. We quite see the anxiety of Mr.Kantawalla. At the same time, having noted that the S.L.P. is now going to come up before the Apex Court on 28.11.2005, we do not think that it would be proper to make the S.L.P. infructuous by directing the applicants herein to implement the impugned order of the Tribunal in the meanwhile.

5. In the circumstances, we allow this Civil Application in terms of prayer clause (a), namely, that the Tribunal’s order may not be enforced until the said S.L.P. is heard and decided. Civil Application is allowed in these terms.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)